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—Judge Arlin M. Adams

SISTER EGAN

Invasion of Privacy Cited as Sister Egan Is Freed of Contempt

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The U. S. Court of Appeals here on Friday overturned the contempt citation against Sister Jogues Egan, who refused to answer the questions at a grand jury hearing probing the alleged "Harrisburg Eight" conspiracy.

The court remanded the case for another hearing in U. S. District Court, this time to determine whether the questions put before Sister Egan, 52, resulted from illegal electronic surveillance.

The grand jury has indicted eight persons, including the Rev. Philip Berrigan. The eight are charged with conspiring to kidnap Presidential adviser Henry Kissinger and blow up Federally-owned heating ducts in Washington, D. C.

The government has named the nun as one of four "coconspirators" in the alleged plot. None of the "coconspirators" has been indicted.

The panel voted 5-2 to dismiss the citation. Last March 2, a three-judge panel of the same court upheld the contempt citation, issued by Judge R. Dixon Herman, of the U. S. District Court in Harrisburg.

However, the court agreed to hear reargument at the request of William T. Coleman, attorney for the nun.

Sister Egan had been granted immunity from prosecution, but her refusal to answer questions brought on the contempt citation.

In a 36-page opinion of the majority of the Appeals Court, handed down by Judge Arlin M. Adams, the court cited the fact that while illegal wiretapping has not been proved, the government has not denied it.

"Surely," said the opinion, "even though Sister Egan has been offered immunity from prosecution, she continues to have a substantial interest in preventing the government from compounding its original violation of her privacy by forcing her to answer questions that would concededly not be asked absent the information discovered through the use of unwarranted wiretaps."

The opinion cited the fact that the government placed great stress on the immunity. However, "the government does not come to grips with the fact that Sister Egan's Constitutionally protected right to privacy has been invaded.

"... In a government of laws, the very existence of the government will be imperiled if it fails to observe the law scrupulously..." the opinion added.